

BOARD OF DESIGN REVIEW MINUTES

June 14, 2001

CALL TO ORDER: Chairman Walter Lemon III called the meeting to order at 6:56 p.m. in the Beaverton City Hall Council Chambers at 4755 SW Griffith Drive

ROLL CALL: Present were Chairman Walter Lemon III; Board Members Ronald Nardoza, Ashetra Prentice and Stewart Straus. Board Members Hal Beighley, Anissa Crane and Monte Edberg were excused.

Associate Planner Tyler Ryerson, Associate Planner Scott Whyte, Assistant City Attorney Bill Scheiderich and Recording Secretary Sandra Pearson represented staff.

6:40 p.m. – Observing that a quorum is necessary to open the meeting, Chairman Lemon pointed out that four of the seven members of the Board of Design Review must be in attendance and that he would allow sufficient time for the fourth member to arrive before calling off the meeting.

6:45 p.m. – Noting that staff had contacted Mr. Straus, Chairman Lemon advised those in attendance that he is expected to arrive within ten minutes.

6:56 p.m. – Mr. Straus arrived.

VISITORS:

Chairman Lemon read the format for the meeting and asked if any member of the audience wished to address the Board on any non-agenda item. There was no response.

OLD BUSINESS:

CONTINUANCES:

A. BDR 2000-0168 – LANPHERE AUTO SALES AND SERVICE

(Request for continuance to July 12, 2001)

This request is for Design Review approval for the remodel and expansion of an existing building for the development of an auto sales and service facility. The applicant proposes to increase the building by approximately 30,441

square feet, and the proposal includes the addition of a parking lot and associated landscaping. The development proposal is located at 4000 SW Hocken Avenue and along the north side of the proposed Millikan Way extension, and is described on Washington County Assessor's Map 1S1-9DC, Tax Lots 900, 1000, 1100 and 1200. The site is zoned General Commercial and is approximately 7.1 acres in size.

Associate Planner Tyler Ryerson pointed out that the applicant had requested a continuance of this Public Hearing until July 12, 2001.

Mr. Straus **MOVED** and Mr. Nardozza **SECONDED** a motion that BDR 2000-0168 – Lanphere Auto Sales and Service Type 3 Design Review be continued to a date certain of July 12, 2001.

Motion **CARRIED**, unanimously.

NEW BUSINESS:

PUBLIC HEARINGS:

A. BDR 2001-0025 – MAGNOLIA GREEN OFFICE BUILDING

(Request for continuance to June 28, 2001)

This proposal involves a new office building proposed to be approximately 9,578 square feet in size, with associated parking and landscaping. The development proposal is located west of Millikan Boulevard and north of Tualatin Valley Highway, and is described on Washington County Assessor's Map 1S1-08CD, Tax Lot 100. The affected parcel is zoned Station Area-Medium Density Residential (SA-MDR) and is approximately 0.88 acres in size.

Mr. Ryerson reported that the applicant had requested a continuance of this Public Hearing until June 28, 2001.

Mr. Straus **MOVED** and Mr. Nardozza **SECONDED** a motion that BDR 2001-0025 – Magnolia Green Office Building Type 3 Design Review be continued to a date certain of June 28, 2001.

Motion **CARRIED**, unanimously.

OLD BUSINESS:

CONTINUANCE:

Chairman Lemon opened the Public Hearing and read the format of the meeting. There were no disqualifications of Board Members. No one in the audience challenged the right of any Board Member to hear any agenda items or participate in the hearing or requested that the hearing be postponed to a later date. He asked

if there were any ex parte contact, conflict of interest or disqualifications in any of the hearings on the agenda.

B. BDR 2001-0017 – CHELSEA PARK CARPORT ADDITION

(Continued from May 24, 2001)

This proposal provides for the addition of 45 standard garages and one ADA accessible garage within seven new structures, and eight carport spaces within two new structures, including associated landscaping improvements. The development proposal is located at 11600 SW 147th Terrace, and is described on Washington County Assessor's Map 1S1-3200, Tax Lot 307. The affected parcel is zoned Town Center-High Density Residential (TC-HDR) and is approximately 10.85 acres in size.

Mr. Ryerson presented the materials board and Staff Report and described the application for the addition of garages, carports and storage facilities to match the existing structures on the site. He discussed the history of the development and proposed changes, including the landscape plan and the required 278 parking spaces. Concluding, he recommended approval, subject to certain Conditions of Approval, and offered to respond to any questions or comments.

APPLICANT:

STEVE ROWTON, architect for the project representing *Amstar*, discussed the development that had been constructed approximately twenty years ago. Observing that the owners are attempting to attract residents who have come to expect garages with the newer projects, he pointed out that the site present offers some covered parking (carports) and guest parking. He mentioned that an attempt has been made to disperse the proposed garages across the site to provide uniform access throughout the buildings, adding that some compromise has been necessary because of the location of some of the utilities. He discussed what he referred to as significant landscape improvements throughout the development, including additional shrubs and ground cover where new buildings are proposed and the replacement of original landscaping that has disappeared over the past twenty years. He described the architectural features of the proposed structures, including attempts to merge with the massing of the existing community. Concluding, he offered to respond to any questions or comments.

Mr. Straus observed that the material board that had been submitted does not address the color of the garage and pedestrian doors.

Mr. Rowton advised Mr. Straus that the applicant's intent is for the garage doors to match the siding of the structures, adding that the pedestrian doors would match the existing unit doors.

Mr. Nardozza requested clarification that the entire proposal is within the confines of the project.

Mr. Rowton assured Mr. Nardozza that the garages would not be visible from outside of the development, and described the introverted parking scheme, adding that all of the parking is within the project and the buildings are oriented to the perimeter of the project.

PUBLIC TESTIMONY:

On question, no member of the public appeared to testify regarding this application.

On question, staff had no further comments regarding this project.

The public portion of the Public Hearing was closed.

Mr. Straus **MOVED** and Mr. Nardozza **SECONDED** a motion to approve BDR 2001-0017 Chelsea Park Carport Addition Type 3 Design Review, based upon the testimony, reports and exhibits presented during the public hearing on the matter and upon the background facts, findings and conclusions found in the Staff Report dated June 7, 2001, including Conditions of Approval Nos. 1 through 16, including an additional Condition of Approval, as follows.

17. Garage doors shall be painted to match the wall color and pedestrian doors shall be painted to match the existing apartment entry doors.

The question was called and the motion **CARRIED** unanimously.

NEW BUSINESS:

PUBLIC HEARINGS:

B. BDR 2001-0028 – SPRINT PCS TELECOMMUNICATIONS FACILITY AT KIM'S MARKET

This proposal is for the placement of a telecommunications facility consisting of six antennas placed atop a 75-foot monopole for an overall height of eighty feet, including the installation of seven equipment cabinets at the base of the monopole, with associated fencing, landscaping and parking. The site proposed for the placement of this facility is generally located on the north side of SW Allen Boulevard, between SW Murray Boulevard and SW 141st Avenue. The site can be specifically identified as Kim's Market, at 14295 SW Allen Boulevard, and is described on Washington County Assessor's Map 1S1-16CC, Tax Lots 602 and 605. The affected parcels are zoned Community Service (CS) and Office Commercial (OC), and together total approximately 1.25 acres in size.

Chairman Lemon discussed what he referred to as a controversial project, observing that it had received a great deal of information from the adjacent neighbors. He introduced Assistant City Attorney Bill Scheiderich and requested information on these types of projects, specifically monopolies.

Referring to the Federal Communications Act of 1996 regulating cellular communication facilities, Assistant City Attorney Bill Scheiderich pointed out that the Federal Law does not allow any local government entity to restrict the placement of wireless or antenna facility on the basis of the emissions that are generated by such a facility, emphasizing that such an action is absolutely forbidden by Federal Law. He described another provision of the Act, requiring that no local government may take any action that constitutes an outright moratorium or blanket denial of these wireless antenna towers. He pointed out that because a tower needs to achieve a certain height in order to function effectively, local government does not have the ability to restrict the height or require that the tower not be visible from a certain distance while still complying with the Federal Act.

Clarifying that he had requested this information to allow everyone in attendance to have a complete understanding of the rules, Chairman Lemon stated that although he has no intention of restricting testimony, he would impose a time limit, adding that each speaker needs to address appropriate issues, and that testimony would not be accepted regarding issues over which the Board has no control.

Associate Planner Scott Whyte presented a short video of the existing site, illustrating the approximate location proposed for the placement of the monopole and describing the surrounding area of the site.

Chairman Lemon described the process, observing that members of the public have only one opportunity for public testimony and that a time limit of five minutes would be imposed.

A member of the audience requested that the City Attorney explain, for the benefit of the public, his understanding of the Board of Design Review's options.

Chairman Lemon explained that the Staff Report is available and lists the criterion that the Board of Design Review must follow.

The member of the audience repeated his request for the opinion of the City Attorney.

Observing that he had just responded to this question, Chairman Lemon requested that this individual be seated.

Mr. Whyte presented the Staff Report, dated June 7, 2001, and described the proposal to locate a monopole and related equipment and provided a brief history of approvals and denials of similar applications for monopoles at the same site. He discussed documents pertaining to this application, including the applicant's narrative and letters received in conjunction with a 1996 request for a monopole at this site. Observing that staff is recommending approval with fourteen Conditions of Approval, he mentioned the possibility of alternate design considerations for a different type of pole. He discussed concerns with noise, noting that the applicant intends to address this issue, and mentioned that proposed Conditions of Approval Nos. 1, 5 and 7 pertain to the applicant's proposed landscape plan. Concluding, he emphasized that the City Attorney had already discussed the issue of emissions for this permitted use and offered to respond to questions and comments.

Mr. Straus referred to proposed Condition of Approval No. 7, which provides that property owners shall be responsible to provide regular maintenance of the landscape area to the north to ensure continuous visual screening of the monopole as seen from the neighboring properties to the north, northeast and northwest. He questioned whether staff is suggesting that the proposed landscaping would completely obliterate every vestige of that pole.

Mr. Whyte agreed that although the landscaping would help to diminish the appearance of the monopole, it would not totally screen the facility.

Mr. Straus referred to a utility pole at Allen Boulevard that had been illustrated in the video presentation, requesting clarification of the height of this particular utility pole.

Mr. Whyte noted that the height of the utility pole is approximately 65 feet and explained that a 1996 request by *Western Wireless* had been denied because that particular utility pole represented the visual impact on the neighbors to the north.

Mr. Straus questioned how this pole had been established as a standard for this purpose.

Mr. Whyte advised Mr. Straus that he is not aware of any such standard within the City Code.

Referring to proposed Condition of Approval No. 7, Chairman Lemon requested clarification that these poles are located are leased and not owned by the applicants.

Observing that an applicant typically leases the area for their monopole, Mr. Whyte informed Chairman Lemon that the applicant could verify this.

Observing that Condition of Approval No. 7 provides that the property owner shall be responsible for maintenance of the site, Chairman Lemon expressed concern that this is a requirement for the property owner, rather than the applicant.

Mr. Whyte advised Chairman Lemon that typically such a responsibility would be enforced upon the property owner, pointing out that this would involve Code Enforcement.

Chairman Lemon questioned whether the property owner has been notified of and is agreeable to this particular Condition of Approval.

Mr. Whyte mentioned that he believes that this involves an off-site property owner, adding that there should be some provision in which the property owner is made aware of requirements they are bound to, adding that for enforcement purposes, it is more feasible to enforce conditions of site maintenance responsibility upon the property owner.

On question, Mr. Whyte advised Chairman Lemon that the applicant would provide further information regarding sound mitigation.

Chairman Lemon questioned whether the proposal includes a chain link fence with slats or a masonry fences, adding that a masonry fence would provide additional sound buffering.

Mr. Whyte discussed different methods typically utilized for sound mitigation, noting that such methods could be applied as a condition, if warranted.

Mr. Nardozza questioned whether any approximation on the tree height had been determined.

Mr. Whyte advised Mr. Nardozza that the applicant should address this issue.

APPLICANT:

HOLLY HENDRICKS, introduced herself and Mike Marley, representing *SBA, Inc.*, the consultant for *Sprint PCS*, and Fotis Karakoulis, the radio frequency engineer for *Sprint PCS*. She described the proposal for Design Review approval for the installation and operation of an 80-foot wireless telecommunications facility and associated equipment, adding that the applicant is attempting to lease a relatively small area, 25.5 feet by 40 feet, surrounded by a seven-foot wood fence, which would be surrounded by landscaping. Observing that the area is currently flat and grassy, she mentioned that the proposed landscaping includes shrubs and trees around the wood pole and additional landscaping around the perimeter of the paved parking area. She mentioned that in an effort to provide visual screening to

the northern residential property owners, the applicant also intends to plant some eight-foot trees. She described what she referred to as a “balloon test”, which was an effort to determine the visual effect of the height of the pole. Referring to concerns with the potential noise, she mentioned that the equipment cabinets sound similar to a refrigerator, adding that the sound would be no greater than 65 decibels. Observing that the applicant has no problem with providing a masonry fence, she expressed her opinion that a wood fence would be more attractive. She mentioned that a thinner pole with exposed antennas and a different color of paint would also be feasible. Noting that the applicant concurs with most of the Conditions of Approval, she mentioned that the radome, referred to in Condition of Approval No. 2, would not be feasible with a smaller pole diameter. Concluding, she offered to respond to any questions or comments.

Mr. Straus requested clarification of the necessity of a monopole nine feet in diameter.

MICHAEL MARLEY, representing *SBA, Inc.*, the consultant for *Sprint PCS*, advised Mr. Straus that the diameter is 36 inches, rather than nine feet, adding that this is the diameter of the entire pole and that it does not taper as it rises.

On question, Ms. Hendricks advised Mr. Straus that the applicant could paint the pole any color suggested by the Board of Design Review and that the radome would be fiberglass and could also be painted any color to match the rest of the facility.

Chairman Lemon requested a description of a top hat pole and a flush mount.

Mr. Marley informed Chairman Lemon that a top hat pole consists of a triangle, typically fifteen feet on each side, placed on top of the pole, and provided illustrations of a flush mount pole and a radome antenna.

Ms. Prentice requested an explanation of a “tower fall zone”.

Ms. Hendricks clarified that this “tower fall zone” is the area required by the City of Beaverton in the event that the tower should fall down, emphasizing that this has never happened in the past.

Mr. Marley noted that the tower is engineered in such a way that it could not break and fall down.

PUBLIC TESTIMONY:

PAUL TELLES mentioned that his property is one that would be most affected by this proposal, pointing out that the majority of the audience is unequivocally opposed to this proposal and that the application and Staff

Report are all based on subjective, aesthetic judgments that are insignificant and unsatisfactory. He pointed out that the two greatest issues involve the visual impact and noise issue. Observing that the applicant describes the pole as sleek and uncluttered, he mentioned that it appears this pole will blend in until you start to think out the obvious. Emphasizing that the pole would be 20 feet higher than any of the existing poles and nine feet in circumference (three times greater than any utility pole in the area), he stated that it is questionable to expect that any landscaping will shield and mitigate any facility this imposing. Expressing his opinion that this pole is not comparable with surrounding trees in height, size or appearance, he stated that the balloon test performed by the applicant had not been realistic for several reasons. Observing that the applicant had advised him that this is an insignificant issue, he pointed out that this had been a very subjective observation, adding that there are no photographs or objective evidence to support their claims. Referring to the potential noise that could be emitted from this facility, he commented that noise is a very subjective issue and that some sort of truly objective, mathematical and statistical information is necessary. He expressed concern with the potential impact this facility would have on the livability of the neighborhood, emphasizing that the neighbors feel that this would be a large, ugly object and a visual blight unacceptable to their neighborhood.

Observing that the majority of any salient points have been made, **JAMES WALLACE** requested clarification from the City Attorney that several cities are already involved in litigation that federal government has preempted their authority to regulate these towers. He pointed out that it is his understanding that Medina, Washington has been successful in winning this litigation. He mentioned that his interpretation of the regulation indicates that there is nothing that prevents the Board of Design Review and the community from considering aesthetics and existing zoning prior to taking action on such an application.

Mr. Scheiderich, City Attorney, advised Mr. Wallace that an excerpt of the Federal Telecommunications Act of 1996 included in the Staff Report provides, as follows: “the regulation of the placement, construction and modification of personal wireless service facilities by any State or local government or agency thereof shall not prohibit or have the effect of prohibiting the provision of personal wireless service”. He clarified that the Board of Design Review does have the power to determine whether the proposal meets the criteria of Design Review approval and to regulate such things as placement and noise. He further explained that if the Board of Design Review were to determine that these types of structures are not allowed when viewed from any residential neighborhood, the industry, in turn, might attempt to prove that wireless service to most of the City of Beaverton is not possible, in part because of the existing hills and valleys in the residential areas. Agreeing that the Board of Design Review has some discretion, he cautioned that it is necessary to be careful where this leads.

Noting that the neighbors are entitled to their opinion that this facility is not acceptable, he pointed out that this is not an adequate basis for a decision.

Expressing his appreciation to Mr. Scheiderich, Mr. Wallace requested that this application be denied, and emphasized the visual perspectives, adding that the tower would not blend in from the neighbors' decks. He pointed out that some of the neighbors have lived in this area for over thirty years and that they should not be required to accommodate *Sprint PCS*.

DAVID KIMMEL mentioned that he is a licensed architect in the State of Oregon, adding that his professional opinion is that this proposed facility is not a feasible use of this land and that as a homeowner, he does not feel this is an appropriate tradeoff.

LORI MILLE noted that her home is located directly north of the proposed facility, adding that this unsightly pole would overwhelm her family's view from their deck. Expressing her opinion that there is currently adequate service for cellular telephone use, she emphasized that the neighbors should not have to be forced to accept this unsightly post and potential effects from radiation. Urging the members of the Board of Design Review to preserve the attractive appearance of the City of Beaverton, she pointed out that this tower would be a liability if she were to attempt to sell her home and therefore requested that the application be denied.

Chairman Lemon questioned the distance of Ms. Miille's deck from the location of the proposed monopole.

Ms. Moline estimated that her deck is located approximately thirty feet from the proposed monopole.

Referring to concern with noise from the proposed development, Chairman Lemon requested that Ms. Miille describe the noise currently generated by Allen Boulevard.

Observing that the traffic on Allen Boulevard is noticeable during peak periods, Ms. Miille informed Chairman Lemon that this traffic and noise decreases in the evening and that the mornings and evenings are generally quiet in her neighborhood.

Emphasizing that his property faces the site of the proposed monopole, **CHUCK ISAAK** commented that he would be continually forced to view this 80-foot structure. He mentioned that he utilizes a cellular telephone on a regular basis and has not noticed any problem with the service. He pointed out that there had only been one telephone provider in the past – "Ma Bell" – which had been regulated by the Utilities Commission. He mentioned concern that the competitive nature of this service could result in eight cellular

towers in one area, expressing his opinion that this should not be allowed simply for the sake of competition. Observing that he pays taxes, tries to be a good citizen, and has lived there a long time, he emphasized that he would like to retain the residential nature of this neighborhood. He referred to Board of Design Review criteria g, which states, as follows: “that the quality, location, size and aesthetic design of walls, etc. (which he assumes includes towers), are such that they serve the intended purposes and have no adverse effect on existing or contemplated abutting land uses.” Urging the City of Beaverton to deny the application for the cellular tower, he offered to respond to any questions or comments.

On question, Mr. Isaak described the location of his home in relation to the proposed cellular tower.

Observing that the proposed development is not the Washington Monument, **ARTHUR RIGG** noted that the character of Lisa Lane has changed significantly since he moved there in 1971. Referring to the current noise created by the Mini-Market’s air compressor and the Chinese Restaurant’s drums that beat until 1:00 a.m., he expressed concern that the proposed cellular tower would generate even more noise. He pointed out that the noise factor is of greater concern to him than the cosmetics referred to by other opponents of the development. He requested that the Board deny the application, which he said would enhance the financial growth of the applicant at the expense of the neighborhood.

ELDRED HOOPENGARNER mentioned that his home has the same address as the proposed development, observing that this close proximity provides him with a good opportunity to review the situation. Pointing out that he has been a homeowner on Lisa Lane for 35 years, he emphasized that they had selected this neighborhood specifically because of the underground utilities, streetlights and sidewalks, which was unique at that time and still is in some developments. He mentioned that he had been informed by the developer and City of Beaverton at that time that future plans for Allen Boulevard included light commercial type businesses and that they had been assured that nothing that exceeded the 35-foot limit in height would be allowed. Referring to the Design Standards listed in the Design Criteria, he mentioned criteria “a”, which states, as follows: “that in relationship to the existing surroundings and future allowed uses, the location, size, shape, height and spatial and visual arrangement of the uses and structures are compatible, with consideration to increased setbacks, building heights, shared parking, common driveways and other similar considerations.” Noting that *Sprint PCS* has compared their proposed communications tower to utility poles and trees in regard to the visual effect upon the adjacent properties, he pointed out that an average utility pole is approximately twelve inches in diameter. He provided a graphic illustration of the diameter of a communications tower, observing that five average utility poles could be contained in the diameter of

the proposed communications tower. He provided pictures of the communications tower located at Washington Square, emphasizing that this facility resembles a smoke stack.

Chairman Lemon advised Mr. Hoopengarner that his illustrations become exhibits which also would become part of the project file.

Mr. Hoopengarner mentioned that the height restriction would be exceeded and violated by the proposed development by 110%, emphasizing that this facility is not comparable to a utility pole or a tree. He mentioned that he had discussed the impact of visual sight of cellular towers on home values with real estate agents, adding that he had been advised that this could decrease the value of a property by ten to fifteen percent and that in many cases, prospective purchasers actually refuse to consider the property.

Observing that Mr. Hoopengarner's time had elapsed, Chairman Lemon advised him that he could have one additional minute to testify.

Noting that he had been employed by *Honeywell* for years, Mr. Hoopengarner emphasized that the fans and air compressors generate more noise than indicated in the Staff Report. Concluding, he requested denial of the application and recommended that the Board visit the site of the cellular tower at Washington Square to determine for themselves the visual and audio effect of the equipment, and offered to respond to any questions or comments.

Mr. Straus questioned whether Mr. Hoopengarner had encountered any cellular towers similar to this proposal while he had worked for *Honeywell*.

Observing that he is retired and had been involved mostly with heating and cooling systems, Mr. Hoopengarner advised Mr. Straus that he had not had experience with this type of cellular tower.

Noting that a heating and cooling system is not the same type of facility as a cellular tower, Mr. Straus pointed out Mr. Hoopengarner is not comparing apples to apples.

Mr. Hoopengarner informed Mr. Straus that he had been involved with railroad cars, steam ships, office buildings, hospitals and private homes, as well as other uses. On question, he informed Chairman Lemon that the proposed facility is identical to the existing cellular tower located at Washington Square.

Observing that she has resided in the neighborhood of the proposed development since 1965, **RITA McCORMICK** stated that she has participated in the Central Beaverton Neighborhood Association since 1988. She emphasized that she has a strong interest in the City of Beaverton and has

been involved for many years. Observing that this is the third application that has been submitted for a cellular tower at this particular site, she pointed out that the first two had been denied. She discussed alternative sites, specifically the *Rite Aid Store* site, adding that *Rite Aid* has agreed that this would be a good potential site and that she does not believe that there would be any opposition to that location. She pointed out that there is property behind *Safeway* on which it might be possible to locate this facility, adding that the applicant had indicated to her that they had not considered this possibility. Expressing her opinion that the Federal government is the driving force behind the installation of a cellular tower at this site, she requested clarification of who is really interested in completing this development. Referring to the 35-foot height restriction on the site, she mentioned that this is the maximum height acceptable to the neighbors. Observing that she believes that there are wetlands issues with this property, she mentioned that the City of Beaverton had performed a great deal of work on the sewer system in this area in the past year. She discussed alternative uses of this property, within the 35-foot height limit, that would be acceptable to the residents of the neighborhood, including office buildings or a possible service station.

APPLICANT REBUTTAL:

Ms. Hendricks clarified that the current utility pole on Allen Boulevard is 65 feet in height and that one of the Douglas fir trees in the area is 89 feet in height. Referring to concerns regarding potentially decreased property values, she pointed out that although this is not among the criteria listed for approval, there is no evidence that such a facility would decrease residential property values. She mentioned a 1996 market study addressing specifically the potential impact of proposed cellular towers on residential properties in Buckley, Washington, noting that the conclusion states, as follows: "Based on a comparison of the average sale prices of the sales within tower influence and that sales removed from tower influence, there is no clear indication that a cellular tower diminishes property value." She commented that while the Portland West Hills has the highest concentration of the largest cellular towers, this area also has a tendency to have the greatest property values. She mentioned that the Community Service (CS) zone in which the proposed development would be located has many large overhead power lines, which tend to dominate the visual environment. She noted that the distance across the undeveloped lot separating the back yards from the proposed cellular tower is approximately 180 to 200 feet. She discussed the concern with potential noise, suggesting that a Condition of Approval could be imposed that states that the noise level could not exceed the acceptable DEQ levels.

Ms. Hendricks discussed the design of the facility, observing that the diameter pole at Washington Square is essentially the same diameter under consideration with this application. She mentioned that the entire radius is not actually the diameter of the pole, adding that the applicant is proposing what

she referred to as a stealth design, which consists of a 36-inch diameter slip stick, although the applicant is willing to consider an even narrower pole, which could be painted any color approved by the Board.

Referring to the sound and noise issue, Mr. Marley commented that the equipment cabinets do not include any air conditioning equipment, he stated that the standard window air conditioning unit generates more noise than these equipment cabinets. He expressed his opinion that any noise generated by the facility would be minimal, especially considering the traffic in the area and the air conditioning unit on top of the mini-mart.

On question, Mr. Marley advised Ms. Prentice that the fans are not on continuously, adding that they turn off and on, in response to the outside temperature and that they would run until the equipment is cooled down, at which point they would shut down again.

Mr. Straus requested clarification of any provisions for collocation of equipment, specifically whether that would occur within the radome provided by *Sprint PCS*.

Mr. Marley advised Mr. Straus that while the facility is not currently designed for collocation, this could be achieved.

Mr. Straus suggested that collocation should be addressed, adding that this key issue is addressed in the drawings and could eliminate the necessity of additional poles. He mentioned that it is necessary to identify the parameters involved or that Conditions of Approval need to be imposed that would stipulate how this could be achieved.

FOTIS KARAKOULIS, representing *Sprint PCS*, described alternative design options available that could accommodate future collocation, adding that one of the unoccupied compartments would be opened and the new equipment installed within the casing, which would not result in additional equipment that would be viewed by the neighbors.

Mr. Straus questioned whether there are any current plans for collocation at this site.

Ms. Hendricks commented that code requires that such a facility be made available for collocation.

Mr. Straus emphasized that a great deal of the neighbors' concern involves whether the applicant has exhausted all options for potential collocation on other existing towers in the area or other locations for this facility that might be less obtrusive than this particular site.

Mr. Karakoulis advised Mr. Straus that no collocation opportunities had been offered to the applicant in this specific area.

Observing that collocation involves political issues, Mr. Straus pointed out that there should be other existing facilities and potential sites within this general area.

Mr. Karakoulis provided a map illustrating the existing *Sprint PCS* network indicating the different levels of coverage within the City of Beaverton and pointed out the proposed site, which is located in an area with weak coverage.

Mr. Straus questioned whether this coverage would include from Hall Boulevard to 160th Avenue.

Ms. Hendricks indicated that she does not believe that the coverage would extend to 160th Avenue.

Mr. Marley stated that he believes that adding that the coverage to the west would extend slightly beyond Murray Boulevard.

Observing that most of the area *Sprint PCS* is attempting to cover is residential in nature, Mr. Straus questioned whether there any potential locations within this area that are not adjacent to a residential area.

Mr. Karakoulis informed Mr. Straus that a review of the area did not reveal any existing structure that met the applicant's minimum requirements, adding that anything less than the 80-foot minimum requirement would not provide adequate coverage.

Mr. Straus questioned whether any consideration had been given to locating the facility at the *Safeway Store* parking lot, adding that this provides a fairly wide open area that is reasonably distant from most of the residential area.

Mr. Marley advised Mr. Straus that he had discussed this with the broker at *Norris, Beggs and Simpson*, who leases that property, who had indicated that they were not interested in leasing this property to the applicant. He mentioned that the *Rite Aid* site had been considered, as suggested by Ms. McCormick, noting that *Rite Aid USA* in California had made the ultimate decision that they did not wish to lease any portion of their property for this purpose.

Mr. Straus mentioned that the information indicates a noise level of 55 to 65 decibels, requesting clarification of whether this level is for each cabinet.

Ms. Hendricks clarified that each cabinet would generate a noise level of 55 to 65 decibels.

Mr. Straus questioned whether there is any determination of the cumulative noise level for all of the cabinets within the facility.

Ms. Hendricks commented that her assessment of the noise level for the entire facility had been based upon standing five feet away from the cellular tower located at Washington Square, adding that this facility also has seven cabinets and is fully operational.

Referring to *Lucent Technology* and acoustic measurements thereof, Mr. Straus questioned whether they had provided any projection on the anticipated decibel level curve or graph over a given distance.

Ms. Hendricks advised Mr. Straus that *Lucent Technology* had not provided such a document.

Mr. Straus questioned whether Ms. Hendricks is familiar with the DEQ requirements for noise levels within this area.

Ms. Hendricks informed Mr. Straus that she would obtain the information regarding DEQ noise levels for this site.

Ms. Prentice questioned whether the church site had also been considered as an option for the location of the proposed monopole facility.

Mr. Marley advised Ms. Prentice that the church site had been considered as a collocation option for this development, adding that this particular pole is already maxed out and that because any collocation would only be 35 or 40 feet, the necessary coverage could not be achieved.

Chairman Lemon indicated that his questions had already been addressed, adding that he has no further questions for the applicant at this time.

From the audience, there was a request of clarification on the maps, and Mr. Marley informed the Board that the map on the left indicates the current coverage and the map on the right illustrates the coverage the applicant hopes to achieve with this development.

From the audience, there was a question as to whether the applicant had considered locating this proposed monopole at the old Library site on Allen Boulevard and Hall Boulevard.

Mr. Marley indicated that the applicant had not considered this particular site.

Ms. Prentice requested clarification of whether the base of the tower is three feet in diameter, and was informed that the tower itself tapers to a smaller

diameter. She observed that the diameter of the base of the tower is comparable to the board shown by Mr. Hoopengartner.

Mr. Lemon took the opportunity to explain the remainder of the Public Hearing procedure, and observed that when a motion is made, while a vote by the entire full seven members of the Board would prevent a deadlock, the four members in attendance at this particular time could result in a deadlock. He requested clarification from Mr. Scheiderich of what the procedure would be in the event of a tied vote on a motion.

Mr. Scheiderich observed that while it would be necessary to review the by-laws, typically a majority vote would be required to pass a motion.

Mr. Whyte emphasized that any documents or illustrations submitted this evening becomes a part of the record to be retained and must be left in this room. He clarified that while code does not actually require collocation, the Planning Commission has attempted to encourage this practice whenever feasible.

From the audience, observing that he had not actually submitted the illustrations he had displayed during his testimony, Mr. Isaak emphasized that he does not intend to leave them behind.

Mr. Straus advised Mr. Isaak that the drawings have been used as evidence in conjunction with this Public Hearing and must remain as part of the record.

Mr. Isaak expressed his disagreement with this policy.

Assuring Mr. Isaak that staff would take good care of his illustrations, Mr. Whyte indicated that pictures could be taken prior to returning them.

Mr. Isaak advised Mr. Whyte that staff could come to his office and take their pictures, adding that he is seventy years old and not impressed.

The Public Hearing was closed.

Mr. Nardoza emphasized that an 80-foot tall flagpole or electrical pole three feet in diameter or a similar church steeple would still result in objections. He clarified that he is attempting to determine whether the objection is to the cell tower itself or to the aesthetic impact of this facility to this residential area.

Ms. Prentice expressed concern with the fact that the proposed monopole would be located 180 feet from the property line, adding that this is not such a great distance when considering an 80-foot structure. She pointed out that a structure that is 80 feet tall and three feet wide does affect the neighboring surroundings and does affect design criteria a. She mentioned her concern

with the noise issues, pointing out that the livability of the neighborhood and community should be considered. Observing that other areas should be considered, she suggested consideration of the old Library site.

Observing that several monopoles have been approved this year, Mr. Nardoza pointed out that while there had been no problems, none of these had been located adjacent to residential areas with 35-foot height limitations.

Mr. Straus expressed his opinion that the applicant has basically provided the Board with two options, specifically a trade-off between a rather streamlined looking larger diameter installation and a much thinner pole with a lot of attached antennas near the top of the pole. He mentioned that both options would be the same height, pointing out that Federal regulations provide that while the Board is not able to prohibit the installation of an 80-foot pole, they can address the diameter of the pole and the accessories located on the sides. He pointed out that the applicant could also be required to locate this facility at a certain location, adding that the free market in real estate provides the applicant with the opportunity to locate appropriate sites that meet their needs and are available. He suggested the possibility of a continuance of the Public Hearing, in lieu of a possible denial, in order to allow the applicant to locate alternative sites, including the old Library site. Observing that the applicant could not be required to locate on a site that does not serve their purpose, he noted that the applicant must prove that all other alternatives have been completely exhausted. Noting that he has seen hundreds of these installations throughout the area, some of which are relatively close to residential neighborhoods, he pointed out that while there have been objections, this is the first time there have been any objections related to potential noise. Noting that the Board has approved their share of thin, ugly poles, he expressed his opinion that this proposal for a larger pole is less unattractive and less conspicuous, while providing a greater potential to disappear into the background.

Ms. Prentice stated that while the Board has approved towers like this, none of these have been located in or affecting a neighborhood without existing power lines or poles.

Chairman Lemon referred to the nine criteria that must be met in order for the Board to approve this request, observing that the Board has the option of denying the application or conditioning the application in order to comply with these criteria. He mentioned that his main concern at this time is with criteria a, noting that while some homeowners have no objection to monopoles adjacent to their property, he does not feel that this proposed structure would be compatible with the existing surrounding uses.

Mr. Straus expressed his concern with the compatibility issue, specifically whether the Board has the authority to make a decision based upon that

incompatibility. He mentioned that there has been no testimony by the neighbors that would provide some hope of designing a facility that would fulfill the requirements of both the applicant and the neighbors. He noted that the primary concerns involve both the height and the width of the proposed monopole, emphasizing that there are problems designing a structure that would provide necessary service without exceeding the height limits. Observing that Federal regulations would not allow the City of Beaverton to simply disallow this type of facility at this site, he pointed out that the only grounds for denial actually involve appearance. He questioned whether this is the only feasible location that the applicant can propose for this installation. Noting that two alternatives for the placement have been proposed, he mentioned that each of these have some merit. He commented that while the applicant has demonstrated that several other options have been considered, it is obvious that there are other options that have not been considered. He emphasized that it might be in the applicant's best interest, at this point, to review some of the locations that they have not yet been reviewed, if only to verify that this is the only available location.

Chairman Lemon commented that based on both Mr. Straus' observations and the situation, the applicant is now in the position of making a decision based upon the three options available to the Board at this time, as follows: 1) the Board can vote on and approve the application, as conditioned by staff; 2) the Board can vote on and deny the application; or 3) the applicant can request a continuance in order to allow them the opportunity to address certain issues. He mentioned that in the event of a continuance, the applicant would be required to sign a waiver of the 120-day rule for the necessary period of time.

Mr. Scheiderich pointed out that the final decision on this application must be made by the City Council by August 10, 2001.

PHIL GRILLO, an attorney for *Miller, Nash LLP*, representing *Sprint, PCS*, requested time for the applicant to caucus and determine how they wish to proceed with this application.

9:37 p.m. to 9:46 p.m. – break.

Mr. Grillo stated that the applicant is willing to waive a portion of the 120-day rule to the extent necessary to continue in timely manner. He requested that the written record be left open for a limited period time, adding that the applicant could prepare a document within the next few days providing information on their efforts to obtain an alternative site, followed by an opportunity for the public to submit their written comments and testimony.

Chairman Lemon mentioned that the 120-day waiver consists of standard form to be signed by the applicant providing that the Public Hearing be continued to a specific date.

Observing that the next meeting is July 28, 2001, which is not an adequate amount of time for all that must be accomplished, Mr. Whyte pointed out that the next scheduled meeting is July 12, 2001, and that the agenda is already quite lengthy.

Chairman Lemon stated that this application could be continued to July 12, 2001, although this item would be last on the agenda.

Mr. Straus advised Chairman Lemon that continuances are heard first, adding that the Board also has the authority to specify the order in which the applications are heard.

Mr. Grillo commented that the applicant's written testimony would be extremely limited to the issue he had mentioned, which involves potential alternative locations.

Chairman Lemon advised Mr. Grillo that any members of the public who testified this evening would receive copies of the applicant's written responses and/or any documents that are submitted, adding that the testimony would be limited strictly to those particular items.

Mr. Grillo requested that staff provide a list to him of those individuals who have testified, adding that the applicant would be happy to forward to these individuals any information that is submitted to the City of Beaverton.

Chairman Lemon informed Mr. Grillo that staff needs to have this information several days earlier than the seven days in advance to the Public Hearing when the Staff Reports need to be available to the public.

From the audience, Mr. Isaak expressed his opinion that the public needs additional time to respond effectively, emphasizing that they should not get railroaded into this development.

Chairman Lemon assured Mr. Isaak that while he is not attempting to railroad anyone into anything, he is attempting to provide a situation that is equitable for all concerned parties. He pointed out that the applicant is making every effort to address the issues and make all information available to the public.

From the audience, Mr. Isaak respectfully submitted that this short time frame is advantageous to the applicant, rather than the public, requesting that the Public Hearing be continued to a minimum of thirty days.

Mr. Grillo informed the Board that only 20 days notification of a land use hearing is required.

Chairman Lemon expressed his opinion that the applicant is being reasonable, adding that written correspondence, particularly certified mail, is assurance that information has been received.

Observing that the normal notice time for a Public Hearing is 20 days, Mr. Straus expressed his opinion that if the information is in the hands of the public in the same manner as considered appropriate for a Public Hearing, the City of Beaverton's obligations have been met.

Mr. Whyte mentioned that the Public Hearing could be closed or left open, although the applicant does have the right to have the record left open for seven days to submit additional information.

Mr. Straus pointed out that the rebuttal from the public does not have to be included within that seven-day period of time.

Mr. Grillo clarified that the seven-day rule involves only the seven days to prepare and make the Staff Report available prior to the Public Hearing, emphasizing that it does not involve written rebuttal by other parties. On question, he informed Mr. Straus that the applicant's additional information would be delivered to the City of Beaverton and mailed to the public on Wednesday, June 20, 2001.

From the audience, Mr. Isaak expressed his opinion that although this Public Hearing has been recorded, there is a great deal of nodding occurring in this room that is not being recorded on this tape. Commenting that the members of the Board have been looking to staff and the City Attorney for legal advice, he mentioned that both staff and the City Attorney have been nodding at the applicant. Emphasizing that this is a situation in which the enemy is actually advising the City on this decision, he stated that he would like this to be reflected in the minutes.

Mr. Scheiderich informed Mr. Isaak that his advice to this Board is not considered a part of the record in any proceeding.

Chairman Lemon advised Mr. Isaak that this issue is proceeding above and beyond what is necessary, observing that he would like to allow the public until the close of business on July 5, 2001 to respond to any issues raised at this Public Hearing.

Mr. Straus commented that the Staff Report must be prepared by July 5, 2001, in order to meet the necessary deadline in order to continue the Public Hearing the following week.

Chairman Lemon clarified that all public comments, in written form, must be received by noon on July 3, 2001.

Mr. Straus **MOVED** and Mr. Nardozza **SECONDED** a motion that BDR 2001-0028 – Sprint PCS Telecommunications Facility at Kim’s Market be continued to a date certain of July 12, 2001, in order to allow the applicant to provide additional information regarding alternative site locations, with the applicant to submit new data by the close of business on June 20, 2001, and that public response to this new information to be submitted by noon on July 3, 2001, and that the applicant’s rebuttal to the public response to be submitted by the close of business July 5, 2001, all in written form.

The question was called and the motion **CARRIED**, unanimously.

APPROVAL OF MINUTES:

The minutes of May 24, 2001, as written, were submitted. Chairman Lemon asked if there were any changes or corrections. Chairman Lemon requested that the second paragraph of page 1 be amended, as follows: “~~Chairman Lemon~~ **Acting Chairman Beighley** opened the Public Hearing...” Mr. Nardozza **MOVED** and Ms. Prentice **SECONDED** a motion that the minutes be adopted as written and amended.

The question was called and the motion **CARRIED** unanimously, with the exception of Chairman Lemon and Mr. Straus, who abstained from voting on this issue.

The minutes of May 10, 2001, as written, were submitted. Chairman Lemon asked if there were any changes or corrections. Chairman Lemon requested that the headers on pages 2 through 10 be amended to reflect May 10, 2001, rather than May 8, 2001. Mr. Nardozza **MOVED** and Ms. Prentice **SECONDED** a motion that the minutes be adopted as written and submitted.

The question was called and the motion **CARRIED** unanimously.

MISCELLANEOUS BUSINESS:

The meeting adjourned at 10:11 p.m.